Supreme Court, U.S.
JUL 1 1993

No. 92-1920

IN THE
Supreme Court of the United States
OCTOBER TERM, 1993

KAREN LIVADAS,
Petitioner,
v.

LLOYD AUBRY, in his official capacity as Labor Commissioner for the State of California,
Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF OF AMICUS CURIAE SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC IN SUPPORT OF PETITIONER

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TABLE OF CONTENTS

	Page
INTEREST OF AMICUS CURIAE	1
ARGUMENT	2
I. THE DECISION BELOW DISRUPTS THE BALANCE OF COLLECTIVE BARGAINING POWER BETWEEN UNIONIZED WORKERS AND THEIR EMPLOYERS AND CHILLS ORGANIZING EFFORTS, ESPECIALLY AMONG LOW-WAGE WORKERS	3
II. THE DECISION BELOW UNDERMINES UNIFORM FEDERAL LABOR POLICY BY ALLOWING STATE AGENCIES TO APPLY STATE LABOR PREEMPTION RULES AT VARIANCE WITH FEDERAL LAW	9
CONCLUSION	11

TABLE OF AUTHORITIES

	Page
FEDERAL CASES	
Alexander v. Gardner-Denver Company, 415 U.S. 36 (1974)	6
Barrentine v. Arkansas-Best Freight System, Inc., 450 U.S. 728 (1981)	2, 3
Fort Halifax Packing Co. v. Coyne, 482 U.S. 1 (1987)	2, 8, 9
Golden State Transit Corp. v. City of Los Angeles, 475 U.S. 608 (1986)	9
Livadas v. Aubry, 749 F. Supp. 1526 (N.D. Cal. 1990)	5, 6
Livadas v. Aubry, 943 F.2d 1140 (9th Cir. 1991)	6, 7
Machinists v. Wisconsin Employment Relations Commission, 427 U.S. 132 (1976)	3, 9
Metropolitan Life Insurance v. Massachusetts, 471 U.S. 724 (1985)	2, 8
Wisconsin Department of Industry v. Gould, 475 U.S. 282 (1986)	3, 10
FEDERAL STATUTES	
Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 *et seq.*	3
STATE STATUTES	
Alaska Stat. § 23.05.140	4
Alaska Stat. § 23.010.430	4, 10
Ariz. Rev. Stat. Ann. § 23-353(A)	4
Ariz. Rev. Stat. Ann. § 23-1361	4
Cal. Lab. Code §§ 201 and 203	5, 6
Cal. Lab. Code § 227.3	4, 10
Cal. Lab. Code § 230(c)	5
Cal. Lab. Code § 1050	4
Cal. Lab. Code § 1198.5	4
Haw. Rev. Stat. § 388-6	4
Idaho Code § 2-216	5
Mont. Code Ann. § 39-2-801	4
Mont. Code Ann. § 39-2-912(2)	10
Nev. Rev. Stat. § 608.019	4, 10
Nev. Rev. § 608.020	4
Nev. Rev. Stat. § 608.100	4

TABLE OF AUTHORITIES—Continued

	Page
Or. Rev. Stat. § 652.140(2)-(5)	4
Wash. Rev. Code § 13(2)	5
Wash. Rev. Code § 49.12.240	4
STAE REGULATIONS	
Cal. Code of Regs. tit. 8 § 11010(3)(F)	10
Cal. Code of Regs. tit. 8 § 11010(11) and (12)	4
Or. Admin. R. § 839-20-050	4, 10
MISCELLANEOUS	
Individual Employment Rights Manual, Lab. Rel. Rep. (BNA, 1990) at 519:107	5
"New Deal Collective Bargaining System", 59 U. Chi. L. Rev. 575, 591 (1992)	4

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BRIEF OF AMICUS CURIAE SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, CLC IN SUPPORT OF PETITIONER

The Service Employees International Union, AFL-CIO, CLC respectfully submits this brief as *amicus curiae* in support of Karen Livadas's petition for certiorari.

INTEREST OF AMICUS CURIAE

The Service Employees International Union (SEIU) is a labor union with over one million members in North America, including over 280,000 members in California. It is the fourth largest union in the AFL-CIO.

The SEIU urges the Court to grant certiorari because the Ninth Circuit's decision will have a chilling effect on union organizing among the unskilled service workers the

SEIU seeks to represent. Most of the SEIU's organizing occurs in traditionally low-wage and union-free service industries. The SEIU has 400,000 members employed in health care, including hospital aides, home care workers, and nursing home attendants. An additional 185,000 SEIU members work in building services, typically as janitors or window cleaners. Even with collective bargaining agreements, employees in these industries often work under terms and conditions very close to the statutory minimum.

Lower-wage service employees like janitors and nurses aides rely on statutory labor standards as both an economic safety net and a floor from which they may bargain upward with their employers. The Ninth Circuit's decision allows states like California to make employees choose between the benefit of state-law employment regulations and their federal right to engage in collective bargaining. This extra cost of union activity will do substantial damage to the SEIU's organizing efforts. If the Ninth Circuit's decision remains the law, every new innovation in California employment law will create a new incentive against collective bargaining.

ARGUMENT

The petition for a writ of certiorari ought to be granted for these reasons:

(1) The Ninth Circuit's decision allows state agencies to alter the balance of bargaining power between unionized workers and their employers, by depriving unionized employees of substantive protections available to all other workers. This result of the Ninth Circuit's decision will have serious structural effects on federal labor policy contrary to this Court's decisions in *Barrentine v. Arkansas-Best Freight System, Inc.*, 450 U.S. 728 (1981), *Metropolitan Life Ins. v. Massachusetts*, 471 U.S. 724 (1985) and *Fort Halifax Packing Co. v. Coyne*, 482 U.S. 1 (1987).

(2) The decision below undermines uniform federal labor policy by allowing state agencies to apply state labor preemption rules at variance with federal law, contrary to this Court's decisions in *Wisconsin Department of Industry v. Gould*, 475 U.S. 282 (1986) and *Machinists v. Wisconsin Employment Relations Comm'n*, 427 U.S. 132 (1976).

I. THE DECISION BELOW DISRUPTS THE BALANCE OF COLLECTIVE BARGAINING POWER BETWEEN UNIONIZED WORKERS AND THEIR EMPLOYERS AND CHILLS ORGANIZING EFFORTS, ESPECIALLY AMONG LOW-WAGE WORKERS.

A.

This case presents the same question about state wage and hour law that this Court answered for federal wage and hour law in *Barrentine v. Arkansas-Best Freight System, Inc.*, 450 U.S. 728 (1981). In that case, the Court found that the existence of collective bargaining and grievance arbitration could not be used as an excuse to deprive unionized employees of their individual rights to enforce federal wage and hour law, the Fair Labor Standards Act (FLSA), 29 U.S.C. §§ 201 et seq.

The *Barrentine* Court emphasized the separate purposes of the Labor Management Relations Act, "which was designed to minimize industrial strife and to improve working conditions by encouraging employees to promote their interests *collectively*," and the Fair Labor Standards Act, which "was designed to give specific minimum protections to *individual* workers and to ensure that *each* employee covered by the Act would receive '[a] fair day's pay for a fair day's work' and would be protected from 'the evil of "overwork" as well as "underpay." ' " [1] Thus, the *Barrentine* Court found that the

[1] *Barrentine*, 450 U.S. at 739 (emphasis in original; citation omitted).

exercise of federal collective-bargaining rights does not collapse the floor imposed by federal wage and hour law.

The strange result of the Ninth Circuit's decision in this case is that the principle of *Barrentine* does not apply for minimum standards created by *state* law. Such state employment protections have expanded dramatically in recent years in what one writer has called "a renaissance of rights for individual employees."[2] Each of the nine states in the Ninth Circuit has enacted a large variety of employment statutes whose availability to union members is now clouded by the Ninth Circuit's new direction in labor preemption law. The Addendum to this brief contains a partial catalogue of these statutory employment standards in the states in the Ninth Circuit. The Western states have created minimum conditions of employment like timely wage payment on discharge,[3] employee access to personnel files,[4] prohibitions against wage deductions for breakage or loss,[5] prohibitions against blacklisting former employees,[6] vesting rights in unused vacation pay on discharge, mandatory meal breaks and rest periods during the workday,[8] and mandatory leave

[2] Katherine Van Wezel Stone, The Tension Between Individual Employment Rights and the New Deal Collective Bargaining System, 59 U. Chi. L. Rev. 575, 591 (1992).

[3] See, e.g., Alaska Stat. § 23.05.140; Ariz.Rev.Stat.Ann. 23-353(A); Haw.Rev.Stat. § 388-2; Nev.Rev.Stat. § 608.020; Or.Rev. Stat. § 652.140(2)-(5).

[4] See, e.g., Alaska Stat. § 23.010.430; Cal.Lab.Code § 1198.5; Wash.Rev.Code § 49.12.240

[5] See, eg., Haw.Rev.Stat. § 388-6; Nev.Rev.Stat. § 608.100.

[6] See, e.g., Ariz.Rev.Stat.Ann. § 23-1361; Cal.Lab.Code § 1050; Mont.Code Ann. § 39-2-801.

[7] See, e.g., Cal.Lab.Code § 227.3.

[8] See, e.g., Cal.Code of Regs. tit. 8 § 11010(11) and (12); Nev. Rev.Stat. § 608.019; Or.Admin.R. 839-20-050.

for jury and witness duty.[9] These state regulations are typically enforced by state agencies like California's Division of Labor Standards Enforcement.

The facts of this case involve a wage and hour regulation requiring immediate wage payment on termination with daily penalties for delay, Cal.Lab.Code §§ 201 and 203. Most states have similar statutes.[10] The purpose behind such regulations (though not obvious to everyone) is important. Many lower-wage workers live from paycheck to paycheck, and they cannot afford the uncertainty of waiting several days, weeks or months after termination until their employer decides to make a final payment of wages due.

California's Division of Labor Standards Enforcement (DLSE) has a policy of refusing to enforce these regulations for employees covered by collective-bargaining agreement that include grievance arbitration.[11] By reversing the district court's federal injunction against this policy, the Ninth Circuit's decision will affect much more than one grocery clerk's attempt to get the agency to enforce one provision of state law.[12] The Ninth Circuit now in fact holds that unionized workers have no federal remedy whenever a state official refuses to enforce a state employment regulation because of their union contract. Indeed, the Ninth Circuit goes out of its way to stress that state officials should refuse to enforce *any*

[9] See, e.g., Cal.Lab.Code § 230(c); Idaho Code § 2-216; Wash. Rev.Code § 13(2).

[10] *Individual Employment Rights Manual*, Lab.Rel. Rep. (BNA, 1990) at 519:107.

[11] *Livadas v. Aubry*, 749 F. Supp. 1526, 1528 (N.D. Cal. 1990).

[12] Even confined to Cal.Lab.Code §§ 201 and 203, the Ninth Circuit's decision affects the statutory final-paycheck rights of 280,000 SEIU members, and more than two million unionized employees, working in California.

employment regulation whenever the law "even arguably is intertwined with consideration" of a union contract.[13]

The harmful effects of this decision will be as great as the ability of state officials to detect "arguable" connections between their states' minimum labor standards and an employee's union contract. If Cal.Lab.Code §§ 201 and 203 are too close to the line to escape what Judge Kozinski calls the majority's "novel doctrine of quasi-preemption,"[14] then so is every other statutory labor standard listed in the Addendum. With the same logic, state labor agencies in Hawaii or Nevada could refuse to enforce state prohibitions against docking employees' wages for breakage, reasoning that such laws entail "the interpretation or application of a union contract." State officials will now have great incentive to follow California's exclusion policy, both as a way to lighten the state agency's workload and (where officials so choose) as a way to foster a union-free business environment.

By reopening the "argument" over this issue, the Ninth Circuit discards all the work this Court has done in cases like *Barrentine* to explain why individual employment rights do not conflict with collective bargaining. This Court has for many years rejected the argument that unionized employees can go to arbitration to vindicate their statutory rights because, as the District Court noted in this case, the "arbitrator may base her decisions solely upon the terms of the [collective bargaining agreement], and not upon public law. *Alexander v. Gardner-Denver Company*, 415 U.S. 36, 53-54 (1974). Since the CBA contains no term requiring wage payment immediately upon termination, and imposes no penalty for failure to make such timely payment, there would be no arbitrable issue."[15] Instead of defending this federal principle, the

[13] *Livadas v. Aubry*, 943 F.2d 1140, 1147 (9th Cir. 1991).

[14] 943 F.2d at 1148 (Kozinski, J., dissenting).

[15] *Livadas v. Aubry, supra*, 749 F. Supp. at 1537.

Ninth Circuit invites state officials to reach their own conclusions about this "complex[] . . . inherent tension," directing only that they exclude union workers if they are even arguably uncertain about the answers.[16] This agnostic attitude toward federal law disserves the Wagner Act and the workers that Congress intended to protect from penalty.

B.

When states exclude unionized workers from various wage and hour protections, they disrupt the balance of power in all aspects of the workplace relationship. In the first place, employees considering forming a union must now count the value of lost state labor benefits as a built-in cost of union membership. Union organizers will have to convince employees that they will be better off with a union even taking into account the automatic loss of state overtime, wage-and-hour, health and safety, and severance pay protection.

The cost-benefit tradeoff that results from the Ninth Circuit's decision will be a powerful weapon in the hands of the anti-union employer. As Judge Kozinski notes, an employer in California may now instruct its employees during a union election campaign: "Look here, if you vote for a union, the first thing that happens to you is that the state Labor Commissioner abandons you.'"[17]

Of course, unions may try to win back the lost benefits through the sheer economic force of collective bargaining. But this is a difficult task for unions representing unskilled, low-wage workers, who are more easily replaced than skilled workers in heavy industry. Even if the union is able to negotiate such benefits into its contract, the union must consume precious resources to win back the conditions which non-union employees enjoy as a matter of right. This means that the union is at a

[16] 943 F.2d at 1147.

[17] 943 F.2d at 1150 fn.2 (Kozinski, J., dissenting) App. 21a.

disadvantage in collective bargaining, since employers do not lose any of their comparable state-law rights when they begin collective bargaining. By contrast, the union must play catch-up ball, since it cannot negotiate a contract with grievance arbitration without automatically costing its members significant substantive state-law protections.

Of course, the employer does not have to agree to restore the lost benefit, and so it may never be won back, leaving union workers worse off than non-union workers—surely an anomalous result in the name of federal labor law preemption. The ultimate irony is that union workers may have to strike in order to secure the benefits that non-union workers are entitled to as a matter of state law. More likely, however, the union may simply decide that it is not worth it to fight for such a benefit, thus again leaving unionized workers at a permanent disadvantage vis-a-vis other workers. A result more anathema to the spirit and logic of the Wagner Act could not be imagined.

These are not new issues in this Court. This Court has consistently ruled that unionized workers should not be penalized for their collective bargaining activity by the loss of minimum state labor standards. "It would turn the policy that animated the Wagner Act on its head to understand it to have penalized workers who have chosen to join a union by preventing them from benefiting from state labor regulations imposing minimum standards on nonunion employers." *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 756 (1985) The Court has already ruled that "employers and employees come to the bargaining table with rights under state law that form a 'backdrop' for their negotiations." *Fort Halifax Packing Co., Inc. v. Coyne, Director, Bureau of Labor Standards of Maine*, 482 U.S. 1, 21 (1987). Just as an employer comes into negotiations with the authority under state common law to run the workplace as

it wishes without having to bargain for it, workers come to collective bargaining with legal rights that underpin their bargaining position. *Id.*

If the Ninth Circuit's decision remains law, this Court's decisions in *Barrentine, Metropolitan Life* and *Fort Halifax* will lose much of their vitality.

II. THE DECISION BELOW UNDERMINES UNIFORM FEDERAL LABOR POLICY BY ALLOWING STATE AGENCIES TO APPLY STATE LABOR PREEMPTION RULES AT VARIANCE WITH FEDERAL LAW.

The Court should put to rest the Ninth Circuit's proposition that a state policy discriminating against union members is unreviewable if it is based on a state agency's "misinterpretation of a perfectly valid state statute" mirroring federal law. This is a paradigmatic case of a state actor discriminating against citizens on the basis of their exercise of protected federal rights under the National Labor Relations Act. Such discrimination is subject to federal injunctive relief under *Machinists v. Wisconsin Employment Relations Comm'n*, 427 U.S. 132 (1976) and *Golden State Transit Corp. v. City of Los Angeles*, 475 U.S. 608 (1986). The Ninth Circuit's tolerance of such discrimination just because the agency bases it on a state labor preemption law not only "gut[s]" the operation of the rule in *Machinists* and *Golden State*, as Judge Kozinski put it, but threatens to proliferate state rules withdrawing employment benefits from unionized workers.

The very idea of state labor preemption law is meaningless. Under the Supremecy Clause of the federal Constitution, the operation of federal law does not need the endorsement or assistance of state legislatures. State laws that purport to repeat the principles of federal labor preemption are at best redundant and at worst mask rules that in fact undercut and violate federal law. For ex-

ample, this Court has ruled that a state may not impose supplementary penalties on labor law violators even in support of federal labor policy.[18] The same principle would apply even if a state codified general federal preemption rules into its state code and then claimed the authority to interpret that state statute to permit additional penalties against labor law violators.

State laws which establish minimum labor standards and purport to exclude unionized workers are disturbingly common.[19] Legislatures in these cases have apparently tried to anticipate federal preemption, but this is wholly unnecessary since federal preemption operates whether states recognize it or not. The explicit exclusion of unionized workers from state statutory minimums, even if well-intentioned, runs afoul of federal law in the opposite manner. If the Ninth Circuit's decision remains the law, state labor preemption statutes will certainly appear even more widely. Under the Ninth Circuit's decision, such state laws give agencies the flexibility to decide whether to extend the benefits of state law, without having to worry about interference from the federal courts. Taken to its logical conclusion, this trend will dismantle federal labor law altogether, leaving fifty versions of federal labor doctrine to develop separately in each of the states. If this happens, the protections of national labor law will depend only on the political climate of the state in which citizens exercise their federal labor rights.

The Court should put a stop to this destructive trend immediately, by granting certiorari in this case.

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[18] See *Wisconsin Department of Industry v. Gould*, 475 U.S. 282 (1986).

[19] See, e.g., Alaska Stat. § 23.10.430(b); Cal.Lab.Code § 227.3; Cal.Code of Regs. tit. 8 § 11010(3)(F); Mont.Code Ann. § 39-2-912(2); Nev.Rev.Stat. § 608.019(3)(b); Or.Admin.R. 839-20-050.

CONCLUSION

Amicus curiae Service Employees International Union respectfully urges that this Court grant certiorari in this case.

Respectfully submitted,

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ADDENDUM

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ALASKA

Alaska Stat. § 15.56.100(a) and (b)

(a) An employer commits the offense of refusal to allow employees time off if he refuses to allow an employee time off for the purpose of voting, or if he, after allowing the time off, deducts the time from the wages of the employee, except as provided in (b) of this section.

(b) An employee who has two consecutive hours in which to vote, either between the opening of the polls and the beginning of his regular working shift, or between the end of his regular working shift and the close of the polls, is considered to have sufficient time outside of his working hours within which to vote.

Alaska Stat. § 23.05.140(b) and (d)

(b) If the employment is terminated, regardless of the cause of termination, all wages, salaries, or other compensation for labor or services become due immediately and shall be paid within three working days after the termination at the place where the employee is usually paid or at a location agreed upon by the employer and employee.

(d) If an employer violates (b) of this section by failing to pay within three working days of termination, the employer may be required to pay the employee a penalty in the amount of the employee's regular wage, salary, or other compensation from the time of demand to the time of payment, or for 90 working days, whichever is the lesser amount.

Alaska Stat. § 23.010.037(a)

A person either personally or through an agent or representative may not request or suggest to an employee

of the person or an applicant for employment by the person or require as a condition of employment that the employee or applicant submit to an examination in which a polygraph or other lie-detecting device is used.

Alaska Stat. § 23.10.430

(a) An employer shall permit an employee or former employee to inspect and make copies of the employee's personnel file and other personnel information maintained by the employer concerning the employees under reasonable rules during regular business hours. The employer may require an employee or former employee who requests copies of material under this subsection to pay the reasonable cost of duplication.

(b) This section does not supersede the terms of a collective bargaining agreement.

ARIZONA

Ariz.Rev.Stat.Ann. § 23-351(A)

A. Each employer in this state shall designate two or more days in each month, not more than sixteen days apart, as fixed paydays for payment of wages to his employees.

Ariz.Rev.Stat.Ann. § 23-353(A)

A. When an employee is discharged from the service of an employer, he shall be paid wages due him within three working days or the end of the next regular pay period, whichever is sooner.

Ariz.Rev.Stat.Ann. § 23-1361(A)

"Blacklist" means any understanding or agreement whereby the names of any person or persons, list of names, descriptions or other means of identification shall be spoken, written, printed or implied for the purpose of

being communicated or transmitted between two or more employers of labor, their bosses, foremen, superintendents, managers, officers or other agents, whereby the laborer is prevented or prohibited from engaging in a useful occupation * * *

CALIFORNIA

Cal.Elec.Code § 14350

If a voter does not have sufficient time outside of working hours to vote at a statewide election, the voter may, without loss of pay, take off enough working time which when added to the voting time available outside of working hours will enable the voter to vote.

No more than two hours of the time taken off for voting shall be without loss of pay. The time off for voting shall be only at the beginning or end of the regular working shift, whichever allows the most free time for voting and the least time off from the regular working shift, unless otherwise mutually agreed.

If the employee on the third working day prior to the day of the election, knows or has reason to believe that time off will be necessary to be able to vote on election day, the employee shall give the employer at least two working days' notice that time off for voting is desired, in accordance with the provisions of this section.

Cal.Lab.Code § 227.3

Unless otherwise provided by a collective-bargaining agreement, whenever a contract of employment or employer policy provides for paid vacations, and an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with such contract of employment or employer policy respecting eligibility or time served: provided, however, that an employment

contract or employer policy shall not provide for forfeiture of vested vacation time upon termination. The labor Commissioner or a designated representative, in the resolution of any dispute with regard to vested vacation time, shall apply the principles of equity and fairness.

Cal.Lab.Code § 230(c)

(c) Any employee who is discharged, threatened with discharge, demoted, suspended, or in any other way discriminated against in the terms and conditions of such employment by his employer because such employee has taken time off to serve on an inquest of trial jury or to appear in court as a witness shall be entitled to reinstatement and reimbursement for lost wages and work benefits caused by such acts of the employer. * * *

Cal.Lab.Code § 432.2(a)

No employer shall demand or require any applicant for employment or prospective employment or any employee to submit to or take a polygraph, lie detector or similar test or examination as a condition of employment or continued employment. * * *

Cal.Lab.Code § 1050

Any person, or agent or officer thereof, who, after having discharged an employee from the service of such person or after an employee has voluntarily left such service, by any misrepresentation prevents or attempts to prevent the former employee from obtaining employment, is guilty of a misdemeanor.

Cal.Lab.Code § 1198.5(a)

Every employer shall at reasonable times, and at reasonable intervals as determined by the Labor Commissioner, upon the request of an employee, permit that employee to inspect such personnel files which are used to determine that employee's qualifications for employment,

promotion, additional compensation, or termination or other disciplinary action.

Cal.Code of Regs. tit. 8 § 11010(3)(A) and (F)

(A) The following overtime provisions are applicable to employees eighteen (18) years of age or over and to employees sixteen (16) or seventen (17) years of age who are not required by law to attend school: such employees shall not be employed more than eight (8) hours in any workday or more than forty (40) hours in any workweek unless the employee receives one and one-half (1½) times such employees' regular rate of pay for all hours worked over forty (40) hours in the workweek. Employment beyond eight hours in any workday or more than six (6) hours in any workweek is permissible provided that the employee is compensated for such overtime at not less than:

(1) One and one-half (1½) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours up to and including twelve (12) hours in any workday, and for the first eight (8) hours worked worked on the seventh (7th) day of work; and

(2) Double the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) day of work in any workweek. * * *

(F) Except as provided in subsections (C) and (E), this section shall not apply to any employee covered by a collective bargaining agreement if said agreement provides premium wage rates for overtime work and a cash wage rate for such employees of not less than one dollar ($1.00) per hour more than the minimum wage.

Cal.Code of Regs. tit. 8 § 11010(11)(A)

No employer shall employ any person for a work period of more than five (5) hours without a meal period

of not less than thirty (30) minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of employer and employee. * * *

Cal.Code of Regs. tit. 8 § 11010(12)

Every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof. * * *

HAWAII

Haw.Rev.Stat. § 11-95

Any voter shall on the day of the election be entitled to be absent from any service or employment in which such voter is then engaged or employed for a period of not more than two hours (excluding any lunch or rest periods) between the time opening and closing the polls to allow two consecutive hours in which to vote. * * *

Haw.Rev.Stat. § 378-26.5

It shall be unlawful for any employer to require a prospective employee or an employee to submit to a lie detector test as a condition of employment.

Haw.Rev.Stat. § 388-2

(a) Every employer shall pay all wages due to the employer's employees at least twice during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks convertible into cash on demand at full face value thereof; provided that when a majority of an employer's employees or a majority of the employees in a collective bargaining unit recognized by an employer or established by law elect, in a secret ballot election under procedures approved by the director of labor and industrial relations,

to be paid once a month on a regularly scheduled basis, the employees shall be paid on such monthly basis. The elections shall not be held more frequently than once in every two years and each election shall be valid for a period of two years.

(b) The earned wages of all employees shall be due and payable within seven days after the end of each pay period.

(c) The director may, upon application showing good and sufficient reasons, permit an employer to:

(1) Establish regular paydays less frequently than semimonthly provided that the employee shall be paid in full at least once each calendar month on a regularly established schedule;

(2) Pay earned wages within fifteen days after the end of each pay period.

Haw.Rev.Stat. § 388-6

No employer may deduct, retain, or otherwise require to be paid, any part or portion of any compensation earned by any employee except where required by federal or state statute or by court process or when such deductions or retentions are authorized in writing by the employee, provided that the following may not be so authorized, or required to be borne by the employee:

(1) Fines;

(2) Cash shortage in a common money till, cash box, or register used by two or more persons; or cash shortage in a money till, cash box, or register under sole control if the employee is not given an opportunity to account for all moneys received at the start of a shift and all moneys turned in at the end of a shift;

(3) Fines, penalties, or replacement costs for breakage;

(4) Losses due to acceptance by an employee of checks which are subsequently dishonored if employee is given discretion to accept or reject any check;

(5) Losses due to defective or faulty workmanship, lost or stolen property, damage to property, default of customer credit, or nonpayment for goods or services received by customer if such losses are not attributable to employee's wilful or intentional disregard of employer's interest; or

(6) Medical or physical examination or medical report expenses which accrue due to services rendered to an employee or prospective employee, where such examination or report is requested or required by the employer or prospective employer or required by any law or regulation of federal, state or local governments or agencies thereof.

An employer shall not deprive an employee of the employee's employment, or threaten or otherwise coerce the employee with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

Haw.Rev.Stat. § 621-10.5(a)

An employer shall not deprive an employee of the employee's employment, or threaten or otherwise coerce the employee with respect thereto, because the employee receives a summons, responds thereto, serves as a witness or attends court as a prospective witness.

IDAHO

Idaho Code § 2-218(1)

An employer shall not deprive an employee of his employment, or threaten or otherwise coerce him with respect thereto, because the employee receives a summons, responds thereto, serves as a juror, or attends court for prospective jury service.

Idaho Code § 44-903

No person, firm, corporation or other business entity or representative thereof, shall require as a condition for employment or continuation of employment any person or employee to take a polygraph test or any form of a so-called lie detector test.

Idaho Code § 45-606(1)

1. Upon layoff, or upon termination of employment by either the employer or employee, the employer shall pay or make available at the usual place of payment all wages then due the employee by the earlier of the next regularly scheduled payday or within ten (10) days of such layoff or termination, weekends and holidays excluded. However, if the employee makes written request upon the employer for earlier payment of wages, all wages then due the employee shall be paid within forty-eight (48) hours of the receipt of such request, weekends and holidays excluded.

Idaho Code § 45-608(1) and (2)

1. Every employer shall pay all wages due to his employees at least once during each calendar month, on regular paydays designated in advance by the employer, in lawful money of the United States or with checks on banks where suitable arrangements are made for the cashing of such checks without charge to the employee. Nothing contained herein shall prohibit an employer from depositing wages due or to become due or in advance on wages to be earned in an account in a bank, savings and loan association or credit union of the employee's choice in the state, provided that the employee has voluntarily authorized such deposit. If the employee revokes such authorization for deposit, it shall be deemed terminated and the provisions herein relating to the payment of wages shall apply.

2. The end of the pay period for which payment is made on a regular payday shall be not more than ten (10) days before such regular payday; provided that if the regular payday falls on a nonworkday payment shall be made on a preceding workday.

MONTANA

Mont.Code.Ann. § 39-2-304(1)

A person, firm, corporation, or other business entity or representative thereof may not require as a condition of employment or continuation of employment, any person to take a polygraph test or any form of mechanical lie detector test.

Mont.Code.Ann § 39-2-801

It is the duty of any person after having discharged any employee from his service, upon demand by such discharged employee, to furnish him in writing with a full, succinct, and complete statement of the reason of his discharge and if such person refuses to do so within a reasonable time after such demand, it is unlawful thereafter for such person to furnish any statement of the reason of such discharge to any person or in any way blacklist or to prevent such discharged person from procuring employment elsewhere, subject to the penalties and damages prescribed in this part.

Montg. Rev. Code § 39-2-904

A discharge is wrongful only if: (1) it was in retaliation for the employee's refusal to violate public policy or for reporting a violation of public policy; or (2) the discharge was not for good cause and the employee had completed the employer's probationary period of employment; or (3) the employer violated the express provisions of its own written personnel policy.

Mont. Rev. Code § 39-2-912(2)

This part [the Montana Wrongful Discharge From Employment Act] does not apply to a discharge . . . of an employee covered by a written collective bargaining agreement or a written contract of employment for a specific term.

Montg. Rev. Code § 39-3-205(1) and (2)

(1) Except as provided in subsections (2) and (3), when an employee is separated from the employ of any employer, all the unpaid wages of the employee are due and payable within 3 days, except for employees of the state of Montana and its political subdivisions who would be paid on the next regular payday for the pay period during which the employee was separated from employment or 15 days from the date of separation from employment, whichever occurs first, either through the regular pay channels or by mail if requested by the employee. However, if an employer's payroll checks originate at an office outside the state, the time provided in this section for payment of wages must be extended for 3 additional days.

(2) Except as provided in subsection (3), if an employee is separated for cause from employment by the employer, all the unpaid wages of the employee are due and payable immediately upon the separation.

NEVADA

Nev.Rev.Stat. § 62.410(1)

It is unlawful for an employer or his agent to: (a) Terminate the employment of a person who, as the parent, guardian or custodian of a child, appears with or on behalf of the child.

Nev.Rev.Stat. § 608.019

(1) An employer shall not employ an employee for a continuous period of 8 hours without permitting the

employee to have a meal period of at least one-half hour. * * *

(2) Every employer shall authorize and permit all his employees to take rest periods, which, insofar as practicable, shall be in the middle of each work period. The duration of the rest periods shall be based on the total hours worked daily at the rate of 10 minutes for each 4 hours or major fraction thereof. * * * Authorized rest preiods shall be counted as hours worked, for which there shall be no deduction from wages.

(3) This section does not apply to:

(a) Situations where only one person is employed at a particular place of employment.

(b) Employees included within the provisions of a collective bargaining agreement.

Nev.Rev.Stat. § 608.020

Whenever an employer discharges an employee, the wages and compensation earned and unpaid at the time of discharge shall become due and payable immediately.

Nev.Rev.Stat. § 608.100

It shall be unlawful for any employer of labor in this state to require his employee to rebate, refund, or return any part of the wage, salary or compensation theretofore paid to such employee.

Nev.Rev.Stat. § 613.210(2)

A person shall not black-list or cause to be black-listed or published the name of or cause to be published the name of any employee, mechanic or laborer discharged by that person with the intent to prevent that employee, mechanic or laborer from engaging in or securing similar or other employment form any other person.

OREGON

Or.Rev.Stat. § 652.140(2)-(5)

(2) When an employee who does not have a contract for a definite period quits employment, all wages earned and unpaid at the time of quitting become due and payable immediately if the employee has given to the employer not less than 48 hours' notice, excluding Saturdays, Sundays and holidays, of intention to quit employment. If notice is not given to the employer, the wages shall be due and payable within five days, excluding Saturdays, Sundays and holidays, after the employee has quit, or at the next regularly scheduled payday after the employee has quit, whichever event first occurs.

(3) For the purpose of this section, if employment termination occurs on a Saturday, Sunday or holiday, payment of wages is made "immediately" if made no later than the end of the first business day after the employment termination, except that if the employment is related to activities authorized under ORS chapter 565, payment of wages is made "immediately" if made no later than the end of the second business day after the employment termination.

(4) The employer shall forward such wages by mail to any address designated by the employee if the employee requests the employer so to do. An employer may deposit such wages without discount in the employee's account in a bank, national bank, mutual savings bank, credit union, or savings and loan association in this state, provided the employee and the employer have agreed to such deposit.

(5) This section does not apply to employment for which a collective bargaining agreement otherwise provides for the payment of wages upon termination of employment.

Or.Admin.R. 839-20-050(1) and (3)

(1) Every employer shall provide to each employee . . . an appropriate rest period. * * *

(3) "Appropriate rest period" means a period of not less than 10 minutes without deduction from the employee's pay for every four hours or major part thereof worked in one rest period.

Or.Admin. 839-20-100(2)

[T]he provisions of OAR 839-20-050 do not apply to employees covered by a collective bargaining agreement.

WASHINGTON

Wash.Rev.Code § 13(2)

An employer shall not deprive an employee of employment or threaten, coerce, or harass an employee, or deny an employee promotional opportunities because the employee receives a summons, serves as a juror, or attends court for prospective jury service.

Wash.Rev.Code § 49.12.240

Every employer shall, at least annually, upon the request of the employee, permit that employee to inspect any or all of his or her own personnel file(s).